

SUPPRESSION OF SMUGGLING

Convention signed at Washington February 10, 1926

Senate advice and consent to ratification March 3, 1926

Ratified by the President of the United States March 30, 1926

Ratified by Spain July 20, 1926

Ratifications exchanged at Washington November 17, 1926

Entered into force November 17, 1926

Proclaimed by the President of the United States November 17, 1926

44 Stat. 2465; Treaty Series 749

The President of the United States of America and His Catholic Majesty the King of Spain being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America; the Honorable Frank B. Kellogg, Secretary of State of the United States; and

His Catholic Majesty the King of Spain; Don Juan Riaño y Gayangos, His Ambassador Extraordinary and Plenipotentiary at Washington, Knight Grand Cross of the Royal and Distinguished Order of Charles III, Grand Cross of Isabel the Catholic, Grand Cross of the Military Merit, Grand Cross of the Naval Merit, Grand Star of Honor of the Spanish Red Cross, Gold Medal of the San Payo Bridge, Grand Cross of the Order of Cambodge, Danebrog of Denmark and Saint Olaf of Norway, Commander of the Legion of Honor of France, Knight of Leopold of Belgium, of the Conception of Villaviciosa of Portugal, His Gentleman of the Chamber, etc., etc., etc.;

Who, having communicated their full powers found in good and due form have agreed as follows:

ARTICLE I

The High Contracting Parties respectively retain their rights, without prejudice by reason of this agreement, with respect to the extent of their territorial jurisdiction.

ARTICLE II

His Majesty, the King of Spain, agrees that he will raise no objection to the boarding of Spanish merchant vessels outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such inquiries and examination show a reasonable ground for suspicion, a search of the vessel, which shall have given ground for such suspicion, may be initiated.

ARTICLE III

If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with the pertinent provisions of law.

ARTICLE IV

The boarding referred to in Article II of this Convention shall not be made at a greater distance from the coast of the United States its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of the first of the said vessels and not the speed of the vessel boarded, which shall determine the distance from the coast within which the action referred to in Article II may be taken.

ARTICLE V

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors when they are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Spanish vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall

at any time or place be unladen within the United States, its territories or possessions.

ARTICLE VI

Any claim preferred in behalf of a Spanish vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Treaty or on the ground that it has not been given the benefit of Article V shall be referred for the joint consideration of two persons one of whom shall be nominated by each of the High Contracting Parties and whose decision shall be given effect, if made in common accord.

Otherwise, that is to say when the said persons shall fail to agree, the claim shall be referred to the Permanent Court of Arbitration at The Hague created by the Convention for the Pacific Settlement of International Disputes, signed at The Hague, October 18, 1907.¹ The Arbitral Tribunal shall be constituted in accordance with Articles 87 and 59 (Chapters 4 and 3 of that Convention). The proceedings shall be regulated by the provisions in the said Chapters 3 and 4 (special regard being had to Articles 70 and 74 but excepting Articles 53 and 54) which the Tribunal may consider to be applicable and to be consistent with the provisions of this agreement. The sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five percent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE VII

This Convention shall be ratified by both parties in accordance with their respective constitutional methods. It shall come into force on the day of the exchange of ratifications, which shall take place at Washington as soon as possible and shall remain in force for one year.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention. If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse at the end of said period. If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side

¹ TS 536, *ante*, vol. 1, p. 577.

to propose as provided above three months before its expiration modifications in the Convention that they may deem expedient and in case they fail to arrive at an agreement regarding these before the end of the term, the Convention will cease and determine at the end of said period.

ARTICLE VIII

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention, the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Treaty not been concluded.

In witness whereof the respective Plenipotentiaries have signed the present Convention in duplicate, in the English and Spanish languages, and have thereunto affixed their seals.

Done at the city of Washington this tenth day of February, one thousand nine hundred and twenty-six.

FRANK B. KELLOGG [SEAL]

JUAN RIAÑO Y GAYANGOS [SEAL]